

Federal Communications Commission FCC MAIL ROOM 2001

Before the
Federal Communications Commission
Washington, D.C. 20554

2001 SEP -6 P 3: 30

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Broken Bow, Oklahoma)	)	MM Docket No. 01-209
	)	RM-10224
)	
(Crowell, Texas)	)	MM Docket No. 01-210
	)	RM-10225
)	
(Holly Springs, Mississippi)	)	MM Docket No. 01-211
	)	RM-10221
)	
(Kiowa, Oklahoma)	)	MM Docket No. 01-212
	)	RM-10222
)	
(McBain, Michigan)	)	MM Docket No. 01-213
	)	RM-10226
)	
(Menard, Texas)	)	MM Docket No. 01-214
	)	RM-10227
)	
(Sparkman, Arkansas))	MM Docket No. 01-215
)	RM-10228
)	
(Valliant, Oklahoma))	MM Docket No. 01-216✓
)	RM-10223
)	

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NOTICE OF PROPOSED RULE MAKING

Adopted: August 22, 2001;

Released: August 31, 2001

Comment Date: October 22, 2001

Reply Comment Date: November 6, 2001

By the Chief, Allocations Branch:

1. Before the Allocations Branch for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. The petitioner for each proposal, has stated that it will apply for each requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 01-209; RM-10224

Petitioner: Maurice Salsa

5615 Evergreen Valley Drive
Kingwood, Texas 77345

Proposal: Allot Channel 285A at Broken Bow, Oklahoma, as that community's second local aural transmission service.¹

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Broken Bow, Oklahoma	291C2	291C2, 285A

Coordinates: 34-04-41 NL and 94-45-53 WL

Additional Information: This allotment requires a site restriction of 5.9 kilometers (3.7 miles) northwest of Broken Bow.

FCC Contact: R. Barthen Gorman (202) 418-2180

¹ Broken Bow is already served by Station KKBI(FM), Channel 291C2.

B. MM Docket No. 01-210; RM-10225

Petitioner: Katherine Pyeatt

6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 293C3 at Crowell, Texas, as that community's first local aural transmission service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Crowell, Texas	-----	293C3

Coordinates: 34-00-00 NL and 99-49-40 WL

Additional Information: This allotment requires a site restriction of 9.7 kilometers (6.0 miles) west of Crowell, Texas.

FCC Contact: R. Barthen Gorman (202) 418-2180

C. MM Docket No. 01-211; RM-10221

Petitioner: Holly Springs Radio

P.O. Box 165
Winona, Mississippi 38967

² Crowell is an incorporated city and serves as the County Seat of Foard County, Texas. The 1990 U.S. Census lists Crowell's population at 1,230 persons.

Proposal: Allot Channel 243A to Holly Springs, Mississippi, as that community's fourth local aural transmission service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Holly Springs, Mississippi	224A	224A, 234C3

Coordinates: 34-41-32 NL and 89-32-33 WL.

Additional Information: This allotment requires a site restriction of 12.6 kilometers (7.9 miles) southwest of Holly Springs.

FCC Contact: R. Barthen Gorman (202) 418-2180

D. MM Docket No. 01-212; RM-10222

Petitioner: Maurice Salsa

5615 Evergreen Valley Drive
Kingwood, Texas 77345

Proposal: Allot Channel 254A at Kiowa, Oklahoma, as that community's first local aural transmission service.⁴

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Kiowa, Oklahoma	-----	254A

Coordinates: 34-42-23 NL and 95-58-48 WL

Additional Information: This allotment requires a site restriction of 7.1 kilometers (4.4 miles) west of Kiowa.

³ Holly Springs, Mississippi, is already served by Station WURC(FM), channel 201; Station WKRA-FM, channel 224; and Station WKRA(AM), 1110kHz.

⁴ Kiowa is an incorporated city. The 1990 U.S. Census lists Kiowa's population at 718 persons.

FCC Contact: R. Barthen Gorman (202) 418-2180

E. MM Docket No. 01-213; RM-10226

Petitioner: McBain Broadcasting Company

c/o Arthur Belendiuk
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W.
Suite 301
Washington, D.C. 20016

Proposal: Allot Channel 300A to McBain, Michigan as the community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
McBain, Michigan	-----	300A

Coordinates: 44-12-09 NL and 85-06-02 WL.

Additional Information: This allotment requires a site restriction 9.1 kilometers (5.6 miles) east of McBain. Since McBain is located within 320 kilometers of the U.S.-Canadian border, concurrence of the Canadian Government will be requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

F. MM Docket No. 01-214; RM-10227

Petitioner: Katherine Pyeatt

6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 242A to Menard, Texas, as the community's second local FM transmission service.⁵

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Menard , Texas	265C2 ⁶	265C2, 242A

Coordinates: 30-59-47 NL and 99-52-06 WL.

Additional Information: This allotment requires a site restriction 11.8 kilometers (7.3 miles) northwest of Menard, Texas. Since Menard is located within 320 kilometers of the U.S.-Mexican border, concurrence of the Mexican Government will be requested for this allotment.

FCC Contact: R. Barthen Gorman (202) 418-2180

G. MM Docket No. 01-215; RM-10228

Petitioner: Big Country Radio, Inc.

P.O. Box 11196
College Station, Texas 77842

Proposal: Allot Channel 259A at Sparkman, Arkansas, as that community's first local aural transmission service.⁷

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sparkman, Arkansas	-----	259A

Coordinates: 33-55-00 NL and 92-50-53 WL

⁵ Menard is an incorporated city and serves as the county seat of Menard County. The 1990 U.S. Census lists the population of Menard at 1,606 persons.

⁶ This channel is currently vacant.

⁷ Sparkman is an incorporated town. The 1990 U.S. Census lists Sparkman's population at 533 persons.

Additional Information: This allotment does not require any site restrictions.

FCC Contact: R. Barthen Gorman (202) 418-2180

H. MM Docket No. 01-216; RM-10223

Petitioner: Maurice Salsa

5615 Evergreen Valley Drive
Kingwood, Texas 77345

Proposal: Allot Channel 234C3 to Valliant, Oklahoma, as the community's first local aural transmission service.⁸

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Valliant, Oklahoma	-----	234C3

Coordinates: 34-00-06 NL and 95-05-42 WL.

Additional Information: This allotment does not require any site restrictions.

FCC Contact: R. Barthen Gorman (202) 418-2180

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference only the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **October 22, 2001**, and reply comments on or before **November 6, 2001**, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility

⁸ Valliant is an incorporated community. The 1990 U.S. Census lists the population of Valliant at 873 persons.

Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW; TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257) at its headquarters, 445 Twelfth Street, SW, Washington, D.C.